

No. 14/13/87-6Lab./406.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Hisar in respect of the dispute between the workman and the management of M/s Managing Director, The Haryana State Federation of Consumers Co-operative wholesale Stores Ltd., Chandigarh *versus* Harkesh Kumar.

BEFORE SHRI D. R. VOHRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM
LABOUR COURT, HISAR

Reference No. 334/90

Date of receipt : 20-3-90

Date of Decision : 2-3-95

SHRI HARKESH KUMAR, S/O KANSHI RAM, VILLAGE BADESHERA, TEHSIL &
DISTRICT BHIWANI

Applicant.

versus

MANAGING DIRECTOR, THE HARYANA STATE FEDERATION OF CONSUMERS
COOPERATIVE WHOLESALE STORES LTD., SECTOR 22-B, CHANDIGARH

Respondent-
Management.

Present :

Shri S. S. Gupta, for the workman.

Shri P. C. Bansal, for the management.

AWARD

In exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act 1947 (for short, 'the Act'), the Governor of Haryana referred the following dispute between Harkesh Kumar and the above mentioned management for adjudication to this Court,—*vide* Labour Department Letter No. Bwa/67-89/9989—94, dated 7th March, 1990 :—

Whether termination of services of Harkesh Kumar is justified and in order? If not, to what relief is he entitled?

2. According to the workman, he was appointed as Salesman by the management in the year 1980. According to him, he was dismissed from service on the charge of misappropriation of funds on 18th January, 1986 and he was relieved from the duties on 30th March, 1986. It was stated by him that the enquiry conducted in this case was not fair and proper and was violative of principles of natural justice. It was further stated that several other employees, who were served with similar charge-sheets, had since been taken back on duty. He, therefore, prayed for reinstatement with full back wages and other consequential benefits.

3. The management, in its written statement contended that he was properly charge sheeted and it was followed by domestic enquiry. In this connection, it was stated that while handing over charge of the Charkhi Branch, the workman had committed shortage of Rs. 10004.67 and that subsequently he deposited Rs. 2,700 on 11th October, 1987 leaving a net shortage of Rs. 7,304.67. According to the management, the enquiry conducted by Shri Rishi Ram Kaushik, Assistant Manager was perfectly legal, because by the time the enquiry was concluded, the workman had deposited the balance amount. It was, therefore, stated that the services of the workman were legally terminated.

4. On the above pleadings of the parties the following issues were framed by my learned predecessor on 1st June, 1991 :—

- (1) As per terms of reference.
- (2) Whether the reference is not maintainable in the present form?
- (3) Whether this Court has no jurisdiction?
- (4) Whether the management conducted a fair and proper domestic enquiry against the workman? If so, to what effect?
- (5) Whether the petitioner was responsible for the shortage of the goods? If so, of what value and to what effect?
- (6) Relief.

5. Issue No. 4, relating to domestic enquiry, was treated as preliminary issue. The parties led evidence on this preliminary issue. I have heard Shri S. S. Gupta, Authorised Representative of the

workman and Shri P. C. Bansal Authorised Representative of the management and have gone through the case file. My findings on the preliminary issue are as under :—

Issue No. 4 :

6. In order to prove this issue, the management had examined Shri Rishi Ram Kaushik, Assistant Manager, MW-1. He had conducted domestic enquiry in this case against the workman. He deposed that he heard both the parties and he testified his report Ex. M-2, whereby he found the workman guilty. He further deposed that the second show cause notice was thereafter issued by the management to the workman and in reply submitted by the workman, a copy of which is Ex. M-4 the workman had admitted having embezzled the amount in question temporarily.

7. Hacked, workman, who appeared as WW-1, on his own hand, admitted that he received charge-sheet, a copy of which is Ex. M-13 and that he submitted reply thereto. He, however, claimed that no witness was examined by the Enquiry Officer in his presence, nor was he afforded any opportunity by the Enquiry Officer to make a statement or to submit documents in his defence. In his cross-examination, he, however, admitted that Ex. M-9 was the copy of reply submitted by him to the charge-sheet and that Ex. M-4 was the copy of reply submitted by him on receipt of second show cause notice.

8. A perusal of Ex. M-8, read with the report of the District Manager, Ex. M-11, would show that the main charge against the workman was that while handing over charge, the workman had committed shortage of Rs. 10,004.67 because on the day of handing over charge, his liability was to the extent of Rs. 15,904.20 on 11th January, 1985, but he handed over charge of stock of Rs. 5,899.53. It was also mentioned in the charge-sheet that the workman had deposited Rs. 2700 on 11th February, 1985 against this shortage, thus leaving the balance of Rs. 7,304.67. The charge-sheet was served upon the workman on 8th March, 1985 per receipt Ex. M-10, admitted by him in his cross-examination. The reply to the charge-sheet was submitted by the workman on 2nd December, 1985 a copy of which is Ex. M-9, which had been admitted by the workman in his cross-examination and through this reply, he workman had informed the management that he had obtained no dues certificate, thereby necessarily implying that he had already deposited the amount found short and this is what the Enquiry Officer had mentioned in his report dated 20th December, 1985, a copy of which is Ex. M-2. The workman even in his reply to the second show cause notice, a copy of which is Ex. M-4, had specifically admitted that he had utilized the said disputed amount on the treatment of his ailing mother and he even offered to pay interest on the late deposit of this short amount, which he admittedly deposited within span of 9 months from February, 1985 to November, 1985.

9. Since the charge against the workman was the shortage of Rs. 10,004.67 found at the time he handed over charge of his office on 11th January, 1985, it was hardly necessary for the Enquiry Officer to record any oral evidence and the argument of Shri S. S. Gupta Authorised Representative of the workman that the enquiry stands vitiated for the failure of the Enquiry Officer to record evidence if produced by the management, is illogical and has to be rejected. The fact remains that the workman had deposited the amount found short within a span of 9 months and this fact stood admitted by him in his reply to the charge-sheet Ex. M-9, wherein he alluded to having obtained no dues certificate and further he admitted this fact explicitly in his reply to the second show cause notice a copy of which is Ex. M-4. In his reply, the workman had specifically admitted that he had utilized the said amount on the treatment of his ailing mother and that he had already deposited total amount of Rs. 1,004.67 and had obtained no due certificate.

10. In the light of above discussion, I am of the opinion that since the fact of temporary embezzlement on disputed amount is admitted by the workman, no fault can be found with the enquiry conducted by the Enquiry Officer in this case. I, therefore, hold that the management had conducted just, fair and proper domestic enquiry against the workman and the preliminary issue is, therefore, answered in favour of the management.

11. Since the workman is guilty of temporary embezzlement of Rs. 10,004.67, it can not be said that the penalty of termination of services, inflicted upon him, by the management, was in any way disproportionate to the charge proved against him and as such, there are no grounds to invoke Section 11-A of the Act to interfere with the punishment awarded by the management to the workman.

12. Since the services of the workman had been terminated by the management after holding just and fair domestic enquiry, the termination of services of the workman is held to be justified and in order and the workman is not entitled to any relief. It is, therefore, not necessary to call upon the parties to lead evidence on the remaining issues. The reference is answered accordingly, with no order as to costs.

The 2nd March, 1995.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Hisar.

Endorsement No.

Dated.

A copy, with two spare copies, is forwarded to the Financial Commissioner & Secretary to Government, Haryana Labour and Employment Departments, Chandigarh, for necessary action.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

No. 14/13/87-6Lab./417.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court Hisar in respect of the dispute between the workman and the management of M/s Registrar Haryana Agricultural University, Hisar *versus* Mani Ram.

BEFORE SHRI B. R. VOHRA PRESIDING OFFICER INDUSTRIAL TRIBUNAL-CUM
LABOUR COURT, HISAR

Reference No. 811/90

Date of Receipt : 18-9-90

Date of Decision : 2-3-95

SHRI MANI RAM S/O SAHI RAM, VILLAGE ARYA NAGAR (KURDI)
DISTRICT HISAR

.. Applicant

versus

1. REGISTRAR, HARYANA AGRICULTURAL UNIVERSITY HISAR,
2. ASSOCIATE PROFESSOR AGRONOMY HARYANA AGRICULTURAL UNIVERSITY
HISAR .. Respondent-Management

Present :

Shri D. N. Munjal for the workman.

Shri Arun Malhotra for the management.

AWARD

In exercise of the powers conferred by clause (c) of Sub Section (1) of Section 10 of the Industrial Disputes Act, 1947 (for short 'the Act'), the Governor of Haryana referred the following dispute between Mani Ram and the above mentioned management for adjudication to this Court,—*vide* Labour Department letter No. Hsr/131-90/38292-297, dated 14th September, 1990 :—

"Whether termination of services of Mani Ram is justified and in order? If not, to what relief is he entitled ?

2. According to Mani Ram, he was appointed as labourer on daily wages in July, 1980 by the management and that he worked continuously up to May, 1988, whereafter he was removed from the job without serving him any notice and without serving him any charge-sheet. He, therefore, prayed for reinstatement with full back wages and other consequential benefits.

3. In the written statement, the management denied the averments made in the claim statement and it was stated that as and when the workman came to the university, he was given work and paid accordingly. It was further stated that in January, 1988, he worked for 2 days, in February, 1988 for 3 days, in March, 1988 for 23½ days, May, 1988 for 17 days, in June, 1988 for 18 days and in July, 1988, he worked for 3 days and thereafter, he did not turn up. It was also stated that there was no question of termination of service, as alleged nor the applicant was entitled to any notice etc. Several preliminary objections were also raised as they are reflected in the following issues framed by my learned predecessor on 23rd January, 1992 :—

1. As per terms of reference.
2. Whether the claim petition is not maintainable?
3. Whether the claim is barred by time?

4. Whether this Court has no jurisdiction to decide the matter?
5. Whether the petitioner is estopped by his act and conduct from claiming the relief?
6. Relief.

4. The parties led evidence in support of their rival claims. I have heard Shri D. N. Munjal, Authorised Representative of the workman and Shri Arun Malhotra, Authorised Representative of the management and have gone through the case file. My findings on the above issues are as under :—

Issue No. 1 :

5. In this case, on an application filed by the workman, the original record was brought by Narender Singh, Agriculture Inspector and he produced the letter Ex. W-1, alongwith which statement showing the number of working days put in by the workman during different years from 1988 to 1988, was attached. The submission of this statement was in contract to the plea raised by the management in the written statement, wherein it was stated that the workman worked during 1988 only and it was denied that worked from 1980 to 1988. A perusal of this statement Ex. W-1/B would show that the workman had put in 183 days service during the preceding 12 months and on this basis, Shri Arun Malhotra, Authorised Representative of the management argued hotly that the workman had not acquired any statutory write as provided under Section 25-F of the Act. On the other hand, Shri D. N. Munjal Authorised Representative of the workman stressed that since the workman had put in 307½ days service during the year 1987, the case of the workman would fall under Section 25B(2) of the Act and the management was duty bound to comply with the mandatory provision of Section 25-F of the Act. He also relied upon the observations made by our own High Court in the authority reported as *Balbir Singh versus The Kurukshetra Central Co-operative Bank Ltd and others*, 1989-SLJ-307.

6. I have given my careful thought to the rival submissions made by Authorised Representative of the parties at the bar. Section 25-B defines is continuous service and according to Sub Section (1) thereof a workman shall be said to be in continuous service for a period, if he is or that period, in uninterrupted service... and sub-Section (2) of Section 25-B now begins with the clause "where a workman is not in continuous service with in the meaning of clause (1) for a period of one year"

7. In our case, it is evident from Ex. DW-1/B that the workman was in service of the management right from January, 1987 to December, 1987. In this way, he has put in uninterrupted service for one year during the year 1987 under the management. As such, the workman in our case is proved to be in continuous service under the management for one year and it is not necessary that the deeming clause provided under Section 25-B (2) should be invoked in his case. The management in my opinion, was thus duty bound to comply with the provisions of Section 25-F of the Act before terminating his services. Admittedly, it was not done by the management and the termination services of the workman had to be treated as illegal. Though Dr. Teneja, MW-1 had stated that the scheme in which the workman was employed, stood accomplished, but no such plea was raised by the management in the written statement and evidence beyond pleadings, has to be rejected.

8. In the light of discussion above, I hold that termination of services of the workman is illegal and workman is entitled to reinstatement and consequential benefits. The workman, however, raised demand notice on 1st January, 1990, though his services were terminated in May, 1988. He has not furnished any explanation what-so-ever for this long silence. I am, herefore of the opinion that he is not entitled to wages for the period prior to 1st January, 1990, when he raised demand notice. He will, however be entitled to full back wages from 1st January, 1990 on wards. This issue is decided accordingly in favour of the workman.

Issue No. 2, 3, 4 and 5

9. All these issues were not pressed by the Authorised Representative of the management and were conceded to by him during arguments. All these issues are, therefore, decided against the management.

Issue No. 6 Relief :

10. In view of my findings on the above issues, the termination of services of the petitioner is held illegal. The same is hereby set-aside. The petitioner is reinstated in the same post forthwith, with benefit of continuity of service and other consequential benefits. The petitioner shall not be entitled to any back wages for the period from may, 1988, when his services were terminated, till 31st December, 1989. He will, however, be entitled to full back wages from 1st January, 1990 on wards. The reference is answered accordingly, with no order as to costs.

The 2nd March, 1995

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hisar.

Endorsement No. 298, dated 6th March, 1995.

A copy, with two spare copies, is forwarded, to the Financial Commissioner & Secretary to Government Haryana Labour & Employment Department Chandigarh for necessary action.

B. R. VOHRA,

Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Hlsar.

The 6th April, 1995

No. 14/13/87-6Lab./520. —In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad, in respect of the dispute between the workman and the management of M/s. A. K. Rubber Industries, C-3217, Jawahar Colony, N.I.T., Faridabad *versus* Sabha Pati :—

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD.

Reference No. 95/94

In the matter of Industrial Dispute.

between

SHRI SABHA PATI, S/O SHRI RAM SINGER C/O SHRI HOOB LAL YADAV,
HOUSE NO. 530, NEAR PREM PUBLIC SCHOOL DAYAL NAGAR, POST
OFFICE AMAR NAGAR, FARIDABAD.

and

M/S A. K. RUBBER INDUSTRIES, C-2217, JAWAHAR COLONY, AIR FORCE
ROAD, NIT, FARIDABAD

Present :

Shri Hoob Lal, Authorised Representative for the workman.

Management *Ex-parte*.

AWARD

Under the provisions of section 10(1)(c) of Industrial Disputes Act, 1947, the Government of Haryana have,—*vide* Endorsement No. ID/FD/20626—31, dated the 25th May, 1994, referred the following dispute between the parties above named for adjudication:—

Whether the termination of services of Shri Sabha Pati is legal and justified ? If not, to what relief he is entitled ?

2. The case of the workman is that he had been working with the Management as Press Operator since 6th January, 1992 and his last drawn wages were Rs. 1200/-p.m. There had been no complaint with regard to his work and conduct. Without serving him with any notice or charge sheet and without assigning any reason his services were terminated in an illegal and unlawful manner on 20th October, 1993. Requests made him by to revoke his termination which was made verbally did not have any effect. It is on these facts that the workman has claimed his reinstatement with continuity of service and full back wages.

3. Notice was given to the management but the same did not care to put in appearance. It was thus, proceeded *ex parte* on 20th October, 1994 and the workman was called upon to lead *ex parte* evidence.

4. In his examination as WW-1 the workman reiterated all facts as are contained in the demand notice which had been adopted as claim statement. The workman also stated that the management had also not paid him his wages for the period from 1st July, 1993 to 20th October, 1993 and also overtime at the rate of four hours per day for the above said period.

5. Since the Management has chosen not to appear. Pleas taken in the demand notice and proved by the workman in his examination as WW-1 go un rebutted and are accepted. The termination of

the services of the workman is, therefore, held illegal and unjustified and he is held entitled to reinstatement with continuity of service and full back wages.

6. An award is passed accordingly-

N. L. PRUTHI,

The 16th March, 1995.

Presiding Officer,
Industrial Tribunal-cum-Labour Court-I,
Faridabad.

Endorsement No. 558, dated the 16th March, 1995.

A copy, with three spare copies, is forwarded to the Commissioner and Secretary to Government of Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,

Presiding-Officer,
Industrial Tribunal-cum-Labour Court-I,
Faridabad.

No. 14/13/87-6Lab/522.—In Pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the dispute between the workman and the management of M/s Bhartia Industrial Security Service Placement, Service E-472, Faridabad *versus* Tilak Singh.

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Reference No. 226 of 94

In the matter of Industrial Dispute

between

SHRI TILAK SINGH, HOUSE NO. 1092, GALI NO. 12, NEW VASLEVA COLONY,
OLD FARIDABAD

and

M/S BHARTIA INDUSTRIAL SECURITY SERVICE PLACEMENT SERVICE,
E-472, SANJAY GANDHI MEMORIAL NAGAR, FARIDABAD

Present :

None for the workman.

Shri G. D. Verma, Authorised Representative, for the workman.

AWARD

Under the provisions of section 10(1) (c) of Industrial Disputes Act, 1947, the Government of Haryana, have,—vide Endorsement No. ID/FD/87-94/30379—84, dated 1st August, 1994, referred the following dispute between the parties above mentioned for adjudication :—

Whether the termination of services of Sh. Tilak Singh, is legal and justified. If not, to what relief he is entitled to ?

2. The following order has been passed in this case today, the 6th March, 1995:—

“Case called twice but no one has appeared for the workman. Notice sent to him at the address given in the reference has proved to be of no avail. This shows that the workman is not interested in matter. His lack of interest can be concluded from this also that according to Management the workman had finally settled his case with the Management on 7th September, 1994 on receipt of an amount of Rs.1600. Photo copy of receipt for the above said amount duly signed by the workman has been placed on record. Accordingly holding that no more dispute now survives in this case. “No claim Award” is hereby passed.

N. L. PRUTHI,

The 6th March, 1995.

Presiding Officer,
Industrial Tribunal-cum-Labour
Court-I, Faridabad.

Endst. No. 560, dated 16th March, 1995.

A copy, with three spare copies, is forwarded to the Commissioner and Secretary to Government of Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal/Labour Court-I,
Faridabad.

No. 14/13/87-6Lab./523—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the dispute between the workman and the management of M/s M. R. Engineering Works, Faridabad *versus* Avdhesh Singh.

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Reference No. 82 of 94

IN THE MATTER OF INDUSTRIAL DISPUTE

between

SHRI AVDHESH SINGH, C/O HARYANA MAZDCOR FEDERATION, PARVESH MARG, NEAR RAILWAY PHATAK, OLD FARIDABAD

and

M/S M. R. ENGINEERING WORKS, PLOT NO. 82, SECTOR-31, FARIDABAD

Present :

None for the workman.

Shri M. S. Nagar, authorised representative for management.

AWARD

Under the provisions of section 10 (1) of Industrial Disputes Act, 1947, the Government of Haryana have,— *vide* Endorsement No. ID/FD/19657—62, dated 18th May, 1994, referred the following dispute between the parties mentioned above for adjudication :—

“Whether the termination of services of Shri Avdhesh Singh is legal and justified ? If not, to what relief he is entitled to ?”

2. Despite notice sent from here as also by the State Government at the time of making reference, the workman has not put on appearance. This shows that the workman is not interested in his case. Accordingly, therefore, ‘No Claim Award’ is hereby passed.

The 9th March, 1995.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal/Labour Court-I,
Faridabad.

Endorsement No. 561, dated 16th March, 1995.

A copy, with three spare copies, is forwarded to the Financial Commissioner and Secretary to Government, Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal/Labour Court-I,
Faridabad.